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ROBERT W. SWEET, JR., TO BE ADMINISTRATOR FOR THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

MARCH 30 (legislative day, JANUARY 23), 1990.—Ordered to be printed

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Mr. BIDEN, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL, MINORITY, AND SUPPLEMENTAL MINORITY VIEWS

[To accompany the nomination of Robert W. Sweet, Jr., to be Administrator for the Office of Juvenile Justice and Delinquency Prevention]

The Committee on the Judiciary, to which was referred the nomination of Robert W. Sweet, Jr., to be the Administrator for the Office of Juvenile Justice and Delinquency Prevention, reported the nomination to the full Senate on March 30, 1990, with a favorable recommendation.

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I. BACKGROUND

The Committee received the President's nomination of Robert W. Sweet, Jr., for the position of Administrator of the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Jus-

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tice, on October 13, 1989. The hearing relative to Mr. Sweet's nomination was held before the committee on March 1, 1990.

Senator Humphrey (R-NH) introduced the nominee and strongly urged the committee to approve his nomination. A statement of support for the nominee was also entered into the record from Senator Armstrong (R-CO), for whom Mr. Sweet worked on the Senate Republican Policy Committee. Senator Humphrey, who has personally known Mr. Sweet for over 12 years, stated he has "complete and full confidence in his ability to do an outstanding and conscientious job" as the Administrator for the Office of Juvenile Justice and Delinquency Prevention.

Mr. Sweet appeared at the hearing and answered all questions asked of him. Mr. Sweet was thoroughly queried by the chairman and members of the committee. In addition, Senator Kerry (D-MA) expressed an interest in this nominee and requested to appear with the committee and ask the nominee questions. Senator Kerry's request was granted and the Mr. Sweet responded to extensive questioning from Senator Kerry as well.

Two witnesses who appeared in support of Mr. Sweet were Mr. Robbie Callaway, Director of Government Relations, Boys Clubs of America, and Dr. Ralph Bledsoe, who worked closely with Mr. Sweet during his various assignments on the White House staff during the Presidency of Ronald Reagan. Mr. Callaway noted that the Boys Clubs of America were a prominent early supporter of the legislation creating OJJDP and that they had a major interest in the qualifications of the nominee to head that agency. Mr. Callaway testified to the extensive "grilling" of Mr. Sweet by BCA and that Mr. Sweet had made a highly favorable impression. Mr. Callaway testified that BCA enthusiastically supported Mr. Sweet's confirmation.

Two witnesses who appeared in opposition to the nomination were Mr. Robert E. Shepherd, Jr., chairperson, Virginia Advisory Committee on Juvenile Justice and Delinquency Prevention; and Mr. William Treanor, director, American Youth Work Center. Both of these witnesses expressed concerns regarding Mr. Sweet's background qualifications with respect to certain aspects of OJJDP programs.

Following the hearing, additional written questions were submitted to Mr. Sweet, which he promptly answered and returned to the committee.

Mr. Sweet's nomination was listed on the agenda for the committee's executive session for March 8, 1990. However, consideration of his nomination was deferred until the next scheduled business meeting in order to permit the nominee to meet with a member of the committee at that member's request.

On March 22, 1990, the Judiciary Committee met in executive session and, a quorum being present, approved a motion to report the nomination to the full Senate with a favorable recommendation by a vote of 9 to 5. The vote on the nomination was as follows:

AYES	NAYS
Mr. DeConcini	Mr. Biden
Mr. Heflin	Mr. Kennedy
Mr. Kohl	Mr. Metzenbaum

Mr. Thurmond
Mr. Hatch
Mr. Simpson
Mr. Grassley
Mr. Specter
Mr. Humphrey
Mr. Leahy
Mr. Simon

II. The Nominee

Mr. Sweet graduated from the University of Maine in 1960 with a B.A. degree in English. He served in the United States Naval Reserves from 1954 until 1962. Mr. Sweet performed postgraduate studies in chemistry at the University of New Hampshire on a National Science Foundation Scholarship, and pursued additional postgraduate studies at Brandeis University. In 1987, he received an honorary Doctor of Laws degree from Indiana Christian University.

Throughout his career, Mr. Sweet has been significantly involved in educational and school-related activities which have a significant impact on youth development and juvenile delinquency prevention.

Mr. Sweet began his career as a high school teacher in Albion, Maine, a position in which he served for 3 years. From 1961 to 1970, he performed volunteer work each summer as a youth camp counselor in New Hampshire, where he worked with junveniles of all income levels in a variety of character-building programs. He also worked for several years as an educational textbook salesman and conducted elementary and secondary teacher training seminars in educational methodology and material utilization.

In 1972, he was elected to serve on his local school board where he served until 1978. From 1970 to 1980, Mr. Sweet served on the Governor's Commission on Public Education for the State of New Hampshire. He also served as chairman of the Board of the New Hampshire Regional School Board for 2 years and as president of the Dublin, New Hampshire, PTA.

Mr. Sweet ran for Congress in New Hampshire's Second Congressional District in 1980, where he lost in the primary to New Hampshire's current Governor, Judd Gregg.

In 1981 he was appointed to be a Special Assistant with the U.S. Department of Education where he served until March of 1982. He was subsequently appointed to be the Deputy Director of the National Institute of Education, where he served until he was appointed Acting Director of N.I.E. In January of 1983, he was appointed to be the Executive Director of the National Council on Educational Research.

In March of that same year, he accepted a position on the White House Staff as a Senior Staff member for the Office of Policy Development where he served until 1985. After which, Mr. Sweet was appointed to the position for Deputy Executive Secretary of the Domestic Policy Council, where he served until 1989. During his years on the White House Staff, Mr. Sweet performed important assignments on a variety of special task forces and working groups, including Chairman of the Working Group on Handicapped Policy; Chairman of the Working Group on the Parental Role in Educa-

tion; and member of the Task Force on Adoption and the Working Group on the Family. Mr. Sweet was also involved in the development of administration anti-drug policy during his service on the White House Staff.

The committee notes that Mr. Sweet received extensive commendations for his work in these and other areas. Among the many groups and prominent individuals commending Mr. Sweet's past work and supporting his confirmation as Administrator of OJJDP were the following: Boys Clubs of America; the Crime Prevention Association of Philadelphia; the Family Research Council; Mr. John Walsh, a prominent leader of the Missing and Exploited Children Program and host of the television show, "America's Most Wanted"; Robert S. Muller, National Council on Disability; Judge Leonard Staisey, Member, United States Committee on the International Year of Disabled Persons; Justin Dart, Chairman, the President's Committee on Employment of People with Disabilities; Paul Jochim, Chairman of the Board, International Rett Syndrome Association; Arnoald Burns, former Deputy Attorney General of the United States and Vice President, Boys Clubs of America; Concerned Women for America; Coalitions for America; Save America's Youth Foundation; Mr. Lex Frieden, Institute for Rehabilitation and Reseach Foundation; and Dr. James Dobson, Focus on the Family.

Currently, Mr. Sweet is a Senior Staff Member on the Senate Republican Policy Committee. In this capacity, he authored a major policy report entitled, "Illiteracy: Incurable Disease or Education Malpractice," which has been distributed to over 10,000 organizations, governors, state legislators, and educators. Senator Armstrong, Chairman of the Republican Policy Committee, states that Mr. Sweet's literacy report has received extensive favorable response from recipients.

III. Discussion

During the committee's consideration of the nomination, some members raised concerns as to whether Mr. Sweet had sufficiently specialized qualifications in the areas covered by OJJDP programs. Some members raised the question as to whether Mr. Sweet satisfied the section of the OJJDP legislation, 42 U.S.C. 5611(b), which provides that the OJJDP Administrator is to be appointed "from among individuals who have had experience in juvenile justice programs."

The OJJDP statute does not define the term "juvenile justice programs." However, the statute does define the term "juvenile delinquency programs," which constitute a subcategory of "juvenile justice programs." 42 U.S.C. 5603(3). That term is broadly defined to include "*any program or activity related to juvenile delinquency prevention*, control, diversion, treatment, rehabilitation, planning, *education, training, and research*, including drug and alcohol abuse programs; the improvement of the juvenile justice system; *and any program or activity to help prevent juvenile delinquency.*" (Emphasis added.)

A fair construction of the statute would indicate that experience in "juvenile delinquency programs," as defined by the statute, also

qualifies as experience in "juvenile justice programs." A narrower construction of the statute would appear to exclude a broad range of persons with extensive experience in juvenile delinquency prevention programs and activities from consideration as OJJDP Administrator, whereas juvenile delinquency prevention is a key component of the Office's mandate.

Mr. Sweet's extensive experience dealing with elementary and secondary education programs and policies at the Department of Education; his work at the White House on Federal programs dealing with drug issues, family, and educational policy; his research, writings, and professional experience in the area of literacy; and his experience as a public school teacher, school board leader, and camp counselor are sufficient to satisfy the statutory criteria for OJJDP Administrator.

Mr. Sweet's qualifications were enthusiastically attested to by Mr. Robbie Callaway, Director of Government Relations of the Boys Clubs of America (BCA). BCA was an original supporter and advocate of the OJJDP legislation and has a strong interest in the effective administration of OJJDP. Testifying on behalf of the BCA, Mr. Callaway stated that Mr. Sweet's extensive background in the areas noted above "clearly qualifies him" under the statutory criteria.

Some concerns were also raised regarding Mr. Sweet's performance during his service at the National Institute of Education of the Department of Education. These concerns related to claims that certain aspects of Mr. Sweet's performance at NIE were disapproved by then Secretary of Education Terrel Bell and that Mr. Sweet had been removed from the Department under unfavorable circumstances.

The record revealed that Mr. Sweet actually achieved an outstanding record of accomplishments at NIE and that Secretary Bell himself personally commended Mr. Sweet for these efforts. A personal note from Secretary Bell to Mr. Sweet, dated October 20, 1982, which was introduced into the record of the Committee's hearings, stated as follows:

> I just finished reading the 1982 accomplishments of NIE. You should feel quite proud of this, Bob. I was impressed.
>
> I appreciate all you do to support our endeavors here in ED (Education Department).

Among the accomplishments achieved at NIE during Mr. Sweet's tenure were extensive cost-savings and personnel efficiency improvements; completion of awards of all but $2,140 of its planned program obligations; improved new procedures for NIE Requests for Proposals; development of an ADP program providing the Institute with a data base of highly qualified peer reviewers to provide recommendations on grant proposals; and development of new projects focusing on literacy and early reading methodology.

After completing his duties as Deputy Director and Acting Director of NIE, he was asked by Secretary Bell to accept the position of Administrator of Management Services, Department of Education, with Department-wide responsibilities. Mr. Sweet declined that position to accept the position of Executive Director of the National Council of Education Research, a body composed of twelve Presi-

dential appointees. Once the Council was established with its own offices and staff, Mr. Sweet was offered and accepted his position in the White House Office of Policy Development, where he served until February 1989.

Mr. Sweet was also questioned extensively concerning the adequacy of the Administration's budget request for OJJDP; the manner in which he intended to carry out the Office's programs under possible budgetary constraints; and the strength of his commitment to the Office's mission and programs.

The committee notes that the nominee can not be held accountable for perceived deficiencies in the administration's budget requests for OJJDP. While certain members of the committee believe that the administration's budget request is inadequate, it would be unrealistic and inappropriate to expect the President's nominee to criticize or disavow that budget request. More importantly, Mr. Sweet has given every indication that, whatever the size of the budget ultimately allocated to OJJDP, he will faithfully deploy those resources towards the accomplishment of the Office's statutory programs and objectives. Thus, in response to questioning from Senator Kerry on this subject, Mr. Sweet testified:

> Senator, I, of course, have to live within whatever the budget is. I believe in that program, as I do other programs that I am aware of that work through OJJDP. On the other hand, we are all dealing with a major budget problem here, and hard decisions have to be made. I am a part of that decision-making process. But when the final determination has been made by the administration as to what they feel this office should be provided, then I support that as well.
>
> Should the Congress in its decision provide funds that are in excess of that, whatever that might be, then I intend to administer those funds as effectively and as efficiently as I possibly can to meet the needs of young people.

Mr. Sweet's responses to extensive questioning from committee members on these issues demonstrated that he is firmly committed to the continued efficient functioning of OJJDP and to the successful achievement of its statutory objectives. The committee notes that Mr. Sweet's extensive career involvement in both professional and voluntary activities related to the well-being, education, and healthy development of juveniles provides further reassurance of his personal commitment to sound policies and programs in the areas of juvenile justice and delinquency prevention. In addition, his record of successful and sensitive interaction with the disabled community during his service at the White House demonstrates that he has the character and the capacity to work effectively with disadvantaged groups such as those young people who are committed to the juvenile justice system.

For all the reasons indicated above, we conclude that Robert Sweet is qualified to serve as Administrator of OJJDP and has the personal qualities which will enable him to serve well in that capacity. We therefore support his confirmation to that position.

IV. ADDITIONAL VIEWS OF SENATORS DECONCINI, HEFLIN, AND KOHL

We wish to express our views separately from the Majority Report on the nomination of Robert W. Sweet, Jr. to be Administrator for the Office of Juvenile Justice and Delinquency Prevention ("OJJDP"). We voted to favorably report Mr. Sweet out of the Judiciary Committee for several reasons: first, because of the personal assurances of Senators Hatch, Humphrey, Armstrong, and by the administration that Mr. Sweet could adequately administer OJJDP; second, because Mr. Sweet assured us that ideology would not play a role in the functioning of the office; and third, because of the pressing need to have a permanent Administrator at OJJDP.

Mr. Sweet's nomination did receive a considerable amount of opposition from the juvenile justice and education communities. Furthermore, although Mr. Sweet's background arguably fulfills the "experience" requirement of the JJDP Act, his background in juvenile justice and delinquency prevention is by no means extensive. Nevertheless, based on the above-mentioned assurances and the fact that this agency has been without an administrator for 15 months, we voted to report Mr. Sweet's nomination to the full Senate.

V. MINORITY VIEWS OF SENATORS BIDEN, KENNEDY, METZENBAUM, LEAHY, AND SIMON

We found the nomination of Robert Sweet to be Administrator of the Office of Juvenile Justice and Delinquency Prevention very difficult to resolve, and a very close call.

This is a very important nomination, because it is for a very important office. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) can play an important role in addressing some of the most serious problems plaguing our Nation's children—drug abuse, child abuse, gang violence, and the crisis facing our juvenile justice system itself.

We are particularly interested in this office, because we have strongly supported it for many years. Each time that President Reagan or Bush proposed abolishing the office, we were deeply involved in the effort to keep the office alive.

The nominee comes to us strongly endorsed by some Senators whom we know very well, and in whom we have confidence and trust. These colleagues have known Mr. Sweet and worked with him for a number of years, and they told us that based on their personal experience with and knowledge of him, they are confident that Mr. Sweet will do an exceptional job in this position.

By all accounts, the nominee is an honorable and intelligent man; one who could do a fine job serving in a number of different positions in this administration.

Nonetheless, we voted against the nomination. We have two concerns that we feel are still unresolved. First, we are not convinced that Mr. Sweet has enough juvenile justice experience. The Juvenile Justice Act requires that the Administrator of this office be drawn from among those individuals with experience in juvenile justice programs, and we believe that some such experience is needed for a new administrator to be effective. Although the nominee has some relevant experience, we are not convinced that it is enough to enable him to "hit the ground running" once confirmed.

Second, we have concerns about the extent of the nominee's commitment to the purpose and mission of this office. We understand that any person who is nominated to this position in a year when the President has proposed to dramatically scale back the office is in a quandry: He must try to convince the Senate that he truly cares about the office's programs, but he cannot contradict the President's budget. It is too much to ask a nominee to contradict an administration's budget request, but it is not too much to ask that nominee to leave the committee with the sense that he will work within the administration to see that the office's budget is boosted next year. After listening to the nominee's testimony for several hours, however, we are still not convinced that he will truly be an advocate for the important programs at OJJDP. We are also troubled by the nominee's tenure at the National Institute of

Education in the early 1980's, where he worked—with the blessing of the President—to greatly scale back the program over which he presided. If this is any indication of how Mr. Sweet will take on this job, it is deeply troubling.

We would like to believe that these concerns are unfounded, and therefore support the nominee, but we cannot. As long-time supporters of OJJDP, however, it is our fervent hope that we will be proven wrong, and that Bob Sweet will be dynamic and effective advocate for juvenile justice programs.

We also hope that the administration will reconsider its efforts to defund the office and will give it the funds it needs to fulfill its mission.

Finally, we pledge to closely oversee the office in the years to come. At several points during his nomination hearing, Mr. Sweet promised to aggressively and effectively address a number of problem areas. We intend to work with him to help fight these problems, but also to watch over him to ensure that he keeps these promises.

VI. SUPPLEMENTAL MINORITY VIEWS OF SENATOR EDWARD M. KENNEDY AND SENATOR HOWARD M. METZENBAUM

Although we join fully in the view expressed by the chairman, we write separately to emphasize several points concerning this nomination. At a time when significant numbers of our Nation's youth are becoming involved in violent crime and illegal narcotics, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) plays an essential role in providing leadership and assistance to individuals and organizations who take on the task of juvenile justice and delinquency prevention.

As defined by the Juvenile Justice and Delinquency Prevention Act, OJJDP's goals are:

(1) to give high priority to preventing juvenile delinquency;

(2) to divert status offenders from the juvenile justice system into community-based programs;

(3) to give greater attention to serious youth crime within the juvenile justice system;

(4) to provide community-based treatment for youth offenders as an alternative to custodial incarceration; and

(5) to improve the quality of treatment of juveniles in the juvenile justice system.

This level of leadership calls for an OJJDP Administrator with extensive understanding of juvenile justice programs and efforts to reduce juvenile delinquency, as well as proven management skills and good administrative judgment.

Given the special nature of OJJDP's mission, Congress amended the Juvenile Justice and Delinquency Prevention Act in 1984 specifically to ensure that the office would maintain the necessary level of professionalism. The 1984 amendment required that the OJJDP Administrator be chosen by the President "from among individuals who have had experience in juvenile justice programs." 42 U.S.C. 5611(b).

This 1984 amendment reflected congressional frustration with inexperienced Administrators and congressional recognition of OJJDP's complex and fundamental responsibilities with respect to youthful offenders. Early OJJDP Administrators included individuals who had devoted up to as much as 20 years to juvenile justice and delinquency programs at the Federal or State level.

In nominating Robert W. Sweet, Jr., the administration has ignored Congress' express requirement that the OJJDP Administrator be experienced in juvenile justice programs. Mr. Sweet has worked in the Department of Education and held staff positions in the White House. By his own admission, Mr. Sweet has no direct experience with juvenile justice programs. (Hearing transcript at pages 29 and 53.) He has never worked in a juvenile justice or delinquency prevention program (Hearing transcript at pages 27, 29

and 54), nor has he conducted any research or written about such programs. (Hearing transcript at page 58.) He has had only the most fleeting contact with OJJDP.

Mr. Sweet's principal experience is in the field of education. Before coming to Washington, he was a teacher for a brief period of time and a textbook salesman. He then served in the Department of Education, and in the National Institute of Education. Mr. Sweet emphasizes that his experience in education is appropriate and sufficient background for the juvenile justice position. Education experience, though appropriate, is hardly a sufficient foundation for an OJJDP Administrator who oversees the Nation's juvenile justice and delinquency prevention programs.

Juvenile justice and delinquency prevention programs address the problems and needs of young people who, in most instances, are already outside society's mainstream, and are not participating or succeeding in mainstream educational institutions. To be effective in leading an agency dedicated to such young persons, the Administrator should be familiar with the factors that place certain youth at risk; the competing theories of rehabilitation and deterrence; and the hybrid legal proceedings specifically designed for youthful offenders.

The OJJDP Administrator should also be knowledgeable about delinquency prevention programs such as substance abuse treatment, individual and family therapy interventions, and foster care. A background in mainstream education simply is not an adequate substitute for experience with the troubled, high-risk youth who are the subjects of juvenile justice and delinquency prevention programs.

The OJJDP Administrator should also have the professional experience, management skill and judgment to lead a staff which is responsible for allocating millions of dollars in discretionary funds and dealing with a network of related State and local agencies across the country. Mr. Sweet's record at the Department of Education suggests that he does not have these attributes. Mr Sweet was dismissed from two positions at the Department at the insistence of Secretary of Education Terrell Bell. As Secretary Bell recounted in his memoirs after his service as Secretary of Education, Mr. Sweet's conduct at the Department disrupted both the administration and the programmatic activities of the agency. Consequently, Secretary Bell insisted on Mr. Sweet's dismissal from the Department. (Hearing transcript at page 51.)

The hearing on Mr. Sweet's nomination, held on March 1, 1990, confirmed that Mr. Sweet is not the right individual to head OJJDP. Mr. Sweet repeatedly demonstrated that he does not have a grasp of the major issues and programs in the field of juvenile justice and delinquency prevention. When asked what his priorities as Administrator would be, Mr. Sweet responded that he would try to strengthen the family and would initiate projects to address the problem of illiteracy. As the chairman pointed out, strengthening the family is a laudable objective yet many of the young people involved in the juvenile justice system do not have families. (Hearing Transcript at pages 41, 44, 45, 46 and 47.) Similarly, Mr. Sweet's interest in illiteracy is marked by his belief that the problems of illiteracy can be solved by a return to the teaching of phonics. This

technique is not noted for its success in teaching youth with disabilities or the other learning related impairments from which many youthful offenders suffer.

At his confirmation hearing, Mr. Sweet was not conversant with many of the key issues in juvenile justice. Though Mr. Sweet had more than 3 months to prepare for the hearing, he showed a disturbing lack of knowledge and understanding of even the most basic issues and programs in the field. His performance demonstrates once again the importance of the experience requirement that Congress added to the OJJDP enabling statute in 1984.

Mr. Sweet was unaware of the continuing problems associated with representation of youthful defendants, who were given a right to counsel by the Supreme Court in *In Re Gault.* (Hearing Transcript at page 57.) Mr. Sweet plainly failed to understand the Court Appointed Special Advocate (CASA) program, until the chairman described the program. (Hearing Transcript at pages 60–71.)

Mr. Sweet consistently maintained during his confirmation hearing that jail removal programs had been successfully completed. He maintained that position even after the chairman read from an OJJDP report which indicated otherwise. (Hearing transcript at pages 34, 62–64 and page 87.) This error is particularly glaring given the important role of these programs, which account for a significant portion of the available funding. In addition, Mr. Sweet acknowledged that under the President's budget proposals, many OJJDP programs would have to be cut. Yet he could not identify a single program that is not working and should be eliminated. (Hearing Transcript at page 109.) By the same token, Mr. Sweet had difficulty identifying programs that were working and should be continued. (Hearing Transcript at pages 66, 71, and 72.)

Faced with another proposed OJJDP budget cut and after resisting unsuccessful efforts by the previous administration to eliminate OJJDP, it is troubling that an individual without the requisite credentials would be nominated for this important position. Though he has professed to being committed to lobbying within the administration in support of OJJDP programs, Mr. Sweet's lack of experience would leave him ill-equipped to carry out the task. To be an effective leader, the OJJDP Administrator must have a working knowledge of the issues and problems under OJJDP's jurisdiction. An Administrator cannot be a forceful advocate for OJJDP's budget or programs if he doesn't understand the programs.

Mr. Sweet's nomination comes at a critical time in the life of OJJDP. It also comes at a critical juncture in our efforts to address the problems of troubled youth in America. Each year, approximately 800,000 juveniles are taken into government custody. 90,000 youthful offenders are currently incarcerated in this country. The problems of drug abuse and violent crime are becoming more pressing every day.

OJJDP needs an Administrator who has experience in juvenile justice and juvenile delinquency prevention and a demonstrated record of competence and accomplishment. Robert Sweet is not that person. His clear lack of the statutorily required experience in juvenile justice programs is reason enough to reject his nomination. His performance during his tenure with the Department of Education was controversial, and raises further questions about his

suitability for this important post. His testimony before the Judiciary Committee demonstrated that Mr. Sweet does not have the experience, knowledge, or judgment to be a satisfactory Administrator of OJJDP, let alone an effective one. For these reasons, we oppose Mr. Sweet's confirmation.

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